Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

SC JOHNSON PHILIPPINES, ROHQ,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9357
For: Refund

Members:

CASTAÑEDA, JR., Chairperson
MINDARO-GRULLA, and
BACORRO-VILLENA, JJ.

Promulgated:

NOV 28 2019

x- 9:10 a.m. - - - -x

DECISION

MINDARO-GRULLA, J.:

Submitted for decision on December 17, 2018 is a *Petition for Review* filed by SC Johnson Philippines, ROHQ against the Commissioner of Internal Revenue, seeking the refund or issuance of a tax credit certificate in the amount of ₱9,235,832.50, allegedly representing validated and duly supported unutilized input taxes attributable to former's zero-rated sales for the 2nd, 3rd and 4th quarters of fiscal year (FY) ending June 30, 2014.

Petitioner SC Johnson Philippines, ROHQ is registered and licensed by the Philippine Securities and Exchange Commission (SEC), under Company Registration No. FS200815730, with business address at No. 6371 Estrella Street, Guadalupe Viejo, Makati City. As stated in its Certificate of Registration and License dated October 10, 2008 issued by the Philippine SEC, petitioner is a regional operating headquarters in the Philippines of SC Johnson & Son Private Limited, is a multinational company organized and existing under the laws of Singapore.[1] It is registered with the Bureau of Internal Revenue

[1] Exhibit "P-1", Docket – Vol. II, pp. 959 to 969.

(BIR) as a value-added tax (VAT) taxpayer, under TIN 266-267-699-000.[2]

On the other hand, respondent is the duly appointed Commissioner of Internal Revenue who holds office at the 5th Floor BIR National Office Building, Agham Road, Diliman, Quezon City.[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

For the above-stated three (3) quarters of FY ending June 30, 2014, petitioner filed with the BIR its Quarterly VAT Returns (BIR Form No. 2550-Q) on the following dates:

Period	VAT Return	Date of Filing
2nd Quarter - FY 2014 (October 1, 2013 to December 31, 2013)	Quarterly VAT Return[4] (Amended)	February 7, 2014
	Quarterly VAT Return[5] (Amended)	December 15, 2015
3rd Quarter - FY 2014 (January 1, 2014 to March 31, 2014)	Quarterly VAT Return [6] (Amended)	April 25, 2014
	Quarterly VAT Return[7] (Amended)	February 17, 2016
4th Quarter - FY 2014 (April 1, 2014 to June 30, 2014)	Quarterly VAT Return[8] (Amended)	July 31, 2014
	Quarterly VAT Return[9] (Amended)	February 17, 2016

Petitioner filed *Applications for Tax Credits / Refunds* (BIR Form No. 1914) with the BIR, as follows:

Date of Filing	Period	Amount
December 23, 2015[10]	October 1, 2013 to December 31, 2013	₱ 7,671,632.16
February 18, 2016[11]	January 1, 2014 to March 31, 2014	₱ 2,262,331.13
February 18, 2016[12]	April 1, 2014 to June 30, 2014	₱ 2,354,239.11
	TOTAL	**₱12,288,202.37**

The BIR then issued Letter of Authority (LOA) No. LOA-411-2015-00000184 (SN eLA201000050688) dated December 23, 2015,[13]

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[2] Exhibit "P-2", Docket – Vol. II, p. 971.
[3] Par. 1, Admitted Facts, *Joint Stipulations of Facts and Issues* (JSFI), Docket – Vol. II, p. 749.
[4] Exhibit "P-8", Docket – Vol. II, pp. 986 to 987.
[5] Exhibit "P-8-1", Docket – Vol. II, pp. 988 to 989.
[6] Exhibit "P-9", Docket – Vol. II, pp. 990 to 991.
[7] Exhibit "P-10", Docket – Vol. II, pp. 992 to 993.
[8] Exhibit "P-11", Docket – Vol. II, pp. 994 to 995.
[9] Exhibit "P-12", Docket – Vol. II, pp. 996 to 997.
[10] Exhibit "P-3", Docket – Vol. II, p. 972.
[11] Exhibit "P-5", Docket – Vol. II, p. 973.
[12] Exhibit "P-6", Docket – Vol. II, p. 974.

authorizing the examination of petitioner's books of accounts and other accounting records for VAT for the period from October 1, 2013 to December 31, 2013.

Subsequently, on February 24, 2016, the BIR also issued LOA No. 411-2016-00000022 (SN: eLA201000050707),[14] authorizing the examination of petitioner's books of accounts and other accounting records for VAT covering the period from January 1, 2014 to June 30, 2014.

On April 25, 2016, petitioner received the letter dated April 15, 2016 signed by Deputy Commissioner Nelson M. Aspe,[15] denying petitioner's application for VAT refund for the above-stated periods. In the said letter, Deputy Commissioner Aspe ruled, *inter alia*, that:

1. The unutilized input taxes from prior periods were applied against output tax on sales realized in the period of claim in the aggregate amount of ₱6,379,793.87. However, verification of said input taxes was not conducted to prove compliance with the invoicing requirements pursuant to Section 113 of the 1997 NIRC, as amended. Therefore, the application of such input tax against the aforesaid output tax cannot be allowed.
2. The total unallowable input taxes and additional VAT assessments per audit of the VAT Credit Audit Division (VCAD), and TARD Review amounted to ₱9,435,685.67, resulting to net available input tax of ₱2,856,038.63. However, there are discrepancies in the CAS Permit Numbers vis-à-vis the submitted official receipts. In addition, no Authority to Print issued by the BIR was provided in case petitioner is using manual or loose-leaf sales invoices or official receipts.

PROCEEDINGS BEFORE THIS COURT

As a consequence of the BIR's denial of its applications for VAT refund, petitioner filed the instant *Petition for Review* with this Court

[13] Exhibit "P-4", Docket – Vol. II, p. 984.
[14] Exhibit "P-7", Docket – Vol. II, p. 985.
[15] Exhibit "P-13", Docket – Vol. II, pp. 998 to 1001.

on May 25, 2016.[16] The instant case was initially raffled to this Court's First Division.

On August 3, 2016, respondent filed his *Answer*,[17] interposing the following special and affirmative defenses, to wit:

> "***PETITIONER FAILED TO FILE THE INSTANT PETITION WITHIN THE PERIOD PRESCRIBED BY LAW. THUS, THE HONORABLE COURT NEVER ACQUIRED JURISDICTION.***
>
> 4. Section 112 (C) of the Tax Code of 1997 provides as follows, *to wit:*
>
> > '***SEC. 112. Refunds of Tax Credit of Input Tax***. -
> >
> > **(A) Zero-rated or Effectively Zero-rated Sales**. - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, **within two (2) years after the close of the taxable quarter when the sales were made**, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: x x x.
> >
> > **(C) Period within which Refund or Tax Credit of Input Taxes shall be Made**. - In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes **within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed** in accordance with Subsections (A) hereof.
> >
> > In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, **within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-**

[16] Docket – Vol. I, pp. 10 to 21.
[17] Docket – Vol. I, pp. 130 to 137.

> **period, appeal the decision or the unacted claim with the Court of Tax Appeals.**' (Emphasis and underscoring supplied)

5. This is clarified under Revenue Memorandum Circular No. 54-2014 which states, to wit:

> III. Mandatory 120 + 30 Day Period –
>
> xxx xxx xxx
>
> In sum, the taxpayer can file the appeal in one of two ways: (1) **file the judicial claim within thirty days after the Commissioner denies the claim within the 120-day period**, or (2) **file the judicial claim within thirty days from the expiration of the 120-day period if the Commissioner does not act within the 120-day period**.

6. In the instant case, the second scenario applies. Assuming that the counting is reckoned on **23 December 2015**, the lapse of the 120-day period would be on **21 April 2016** and the lapse of the thirty day period within which to file the judicial claim would be on **21 May 2016**. Thus, it is clear then that **04 days** had already lapsed.

7. Based on the foregoing, it is apparent that the portion of the judicial claim was filed way beyond the period provided for in Section 112 (C) of the Tax Code as clarified under RMC No. 54-2014 and part of the action had already prescribed.

8. In the case of *CIR vs. Aichi Forging Company of Asia, Inc. (GR No. 184823, October 6, 2010)*, the Supreme Court had decided that the filling of the judicial claim within 30 days after the 120 day period is mandatory, thus failure to comply by Aichi was deemed fatal. The Supreme Court states:

> 'There is nothing in Section 112 of the NIRC to support respondent's view. Subsection (A) of the said provision states that 'any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or

> refund of creditable input tax or paid attributable to such sales'. The phrase 'within two (2) years xxx apply for the issuance of a tax credit certificate or refund' refers to applications for refund/credit filed with the CIR and not to appeals made to the CTA. This is apparent in the first paragraph of subsection (D) of the same provision, which states that the CIR has '120 days from the submission of complete documents in support of the application filed in accordance with Subsections (A) and (B)' within which to decide on the claim.
>
> In fact, applying the two-year period to judicial claims would render nugatory Section 112 (D) of the NIRC, which already provides for a specific period within which a taxpayer should appeal the decision or inaction of the CIR. The second paragraph of Section 112 (D) of the NIRC envisions two scenarios: **(1) when a decision is issued by the CIR before the lapse of the 120-day period;** and **(2) when no decision is made after the 120-day period. In both instances, the taxpayer has 30 days within which to file an appeal with the CTA.** As we see it then, the 120-day period is crucial in filling an appeal with the CTA.

9. In the case at bar, petitioner failed to file portion of its claim for refund within thirty days after the expiration of the 120-day period when no decision was made within the 120 day period. Thus, portion of the instant petition should not be given due course for lack of jurisdiction.

ASSUMING ARGUENDO THAT THE INSTANT PETITION WAS TIMELY FILED, PETITIONER MUST PROVE THAT IT COMPLIED WITH ALL THE STATUTORY AND ADMINISTRATIVE REQUIREMENT TO BE ENTITLED TO TAX REFUND.

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10. Taxes collected are presumed to be in accordance with laws and regulations.

11. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau of Internal Revenue. A claim for refund is not *ipso facto* granted because respondent CIR still has to investigate and ascertain the validity of claim.

12. Taxes are essential to government's very existence; hence, the dictum that 'taxes are the lifeblood of the government'. For this reason, the right of taxation cannot easily be surrendered; statutes granting tax exemptions are considered as a derogation of the sovereign authority. Since tax refunds are regarded as tax exemptions therefore, these are to be construed ***strictissimi juris*** against the person or entity claiming the exemption.

13. In an action for refund, the burden of proof is on the taxpayer who claims the exemption and he must justify his claim by the clearest grant under the Constitutional or statutory law and cannot be permitted by vague implications. The taxpayer is charged with the heavy burden of proving that he has complied with and satisfied all the statutory and administrative requirements to be entitled to the tax refund.

14. To support its claim, it is imperative for petitioner to prove the following, viz:

    a. The registration requirements of a VAT taxpayer in compliance with Revenue Regulations No. 7-2012 in relation to Section 236 (A), (B), (C) and (D) of the Tax Code, as amended;

    b. The invoicing and accounting requirements for VAT-registered persons, as well as the filling and payment of VAT in compliance with the provisions of Section 113 and 114 of the Tax Code, as amended;

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c. Proof of compliance with the prescribed checklist of requirements to be submitted involving claim for VAT refund pursuant to Revenue Memorandum Order No. 53-98 and Revenue Memorandum Circular No. 54-2014, otherwise, there would be no sufficient compliance with the filing of an administrative application for refund which is a condition sine qua non prior to the filling of a judicial claim in accordance with Section 112 of the Tax Code, as amended. This requires the submission of complete documents in support of the application filed with the Bureau of Internal Revenue before the 120-day audit period shall apply, and before the taxpayer could avail of the judicial remedies as provided for in the law. Hence, petitioner's failure to submit proof of compliance with the above-stated requirements warrants immediate dismissal of the petitioner for review;

d. That the input VAT of P 9,235,835.50 allegedly incurred by petitioner for the 2nd, 3rd and 4th quarters of fiscal year ending June 30, 2014 were attributable to its zero-rated sales and such have not been applied against any output tax and were not carried over to the succeeding taxable quarter or quarters;

e. That petitioner's administrative and judicial claims for tax credit or refund of the unutilized input tax (VAT) was filed within the periods provided in Section 112 (A) and (C) of the Tax Code, as amended;

f. That petitioner's purchases of capital goods and domestic purchases of goods and services were made in the course of its trade or business, properly supported by VAT invoices and/or official receipts and other documents, such subsidiary purchase Journal showing that it actually paid VAT in

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accordance with Sections 110 (A) (2) and 113 of the Tax Code as amended, and pursuant to Section 4.110-7 of Revenue Regulations No. 14-2005.

15. Petitioner must prove that the aggregate amount of P 9,235,832.50 being claimed by petitioner arising from alleged unutilized input VAT for the 2nd, 3rd, and 4th quarters of fiscal year ending June 30, 2014 is properly documented.

16. Accordingly, without proper document showing full compliance with all the requirements for claiming unutilized Input VAT, then the instant claim for refund or credit must fail."

The pre-trial conference was set on November 17, 2016.[18]

Respondent transmitted the *BIR Records* for the instant case on August 22, 2016.[19]

Respondent's Pre-Trial Brief was filed on October 13, 2016;[20] while the *Pre-Trial Brief For The Petitioner* was submitted on November 11, 2016.[21]

Thereafter, the parties submitted their *Joint Stipulation of Facts and Issues* (JSFI) on February 21, 2017.[22] In the Resolution dated March 1, 2017,[23] the said JSFI was approved by this Court, and the Pre-Trial was deemed terminated.

The Pre-Trial Order for this case was issued on March 20, 2017.[24]

Trial ensued.

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[18] *Notice of Pre-Trial Conference* dated August 9, 2016, Docket – Vol. I, pp. 139 to 140.
[19] Respondent's *Compliance (Re: Transmittal of BIR Records)*, Docket – Vol. I, pp. 143 to 145.
[20] Docket – Vol. I, pp. 149 to 152.
[21] Docket – Vol. I, pp. 184 to 189.
[22] Docket – Vol. II, pp. 749 to 753.
[23] Docket – Vol. II, p. 768.
[24] Docket – Vol. II, pp. 813 to 819.

During trial, petitioner presented documentary and testimonial evidence. As for its testimonial evidence, petitioner offered the testimonies of Ms. Maria Celeste C. Mutuc,[25] petitioner's Finance Director/Chief Financial Officer, and Mr. Valentin U. Romio,[26] the Court-commissioned Independent Certified Public Accountant (ICPA).[27]

The ICPA Report was submitted on July 3, 2017.[28]

On August 22, 2017, petitioner filed its *Formal Offer of Evidence*.[29] Respondent filed his *Comment/Opposition Re: Petitioner's Formal Offer of Evidence* on September 4, 2017.[30] In the Resolution dated December 12, 2017,[31] the Court admitted petitioner's Exhibits, but denied the following:

1. Exhibits "P-9" and "P-11", for failure to properly identify the exhibits; and
2. Exhibits "P-22-G-12-0045", "P-22-G-12-0182", "P-22-G-12-0187", "P-22-G-12-0207", "P-22-G-12-0248", "P-22-G-12-0251", "P-22-G-12-0253", "P-22-G-13-0081" to "P-22-G-13-0082", "P-22-G-13-0115", "P-22-G-13-0118" to "P-22-G-13-0120", "P-22-G-13-0248" to "P-22-G-13-0260", "P-22-G-13-0452" to "P-22-G-13-0482", "P-22-G-13-0498", "P-22-G-13-0504", "P-22-G-16-0005", "P-22-G-16-0115" to "P-22-G-16-0117", "P-22-G-16-0120", "P-22-G-16-0138", "P-22-G-16-0149" to "P-22-G-16-0150", "P-22-G-16-0180", "P-22-G-16-0203" to "P-22-G-16-0204", "P-22-G-16-0211" to "P-22-G-16-0213", "P-22-G-16-0216" to "P-22-G-16-0221", "P-22-G-18-0001", "P-22-G-18-0017", "P-22-G-18-0029", "P-22-G-18-0037", "P-22-G-18-0041", "P-22-G-18-0045", "P-22-G-18-0049", "P-22-G-18-0053", "P-22-G-18-0065", "P-22-G-18-0125", "P-22-G-18-0133", "P-22-G-18-0141", "P-22-G-18-0145", "P-22-G-18-0149", "P-22-G-18-0153", "P-22-G-18-0169", "P-22-G-18-0173", "P-22-G-18-0185", "P-22-G-18-0199", "P-22-G-18-0201", "P-22-G-18-0211", "P-22-G-18-

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[25] Exhibit "P-20", Docket – Vol. I, pp. 196 to 213; Minutes of the hearing held on, and Order dated, May 30, 2017, Docket – Vol. II, pp. 879 to 885.
[26] Exhibit "P-23" (actually marked as Exhibit "P-26"), Docket – Vol. II, pp. 905 to 936; Minutes of the hearing held on, and Order dated, August 8, 2017, Docket – Vol. II, pp. 938 to 941.
[27] Minutes of the hearing held on, and Order dated, May 11, 2017, Docket – Vol. II, pp. 860 to 861, and 863 to 864, respectively; *Oath of Commission* dated May 11, 2017, Docket – Vol. II, p. 862.
[28] Docket – Vol. II, p. 900.
[29] Docket – Vol. II, pp. 943 to 958.
[30] Docket – Vol. II, pp. 1080 to 1082.
[31] Docket – Vol. II, pp. 1088 to 1092.

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0223", "P-22-G-18-0231", "P-22-G-18-0255", "P-22-G-18-0259", "P-22-G-18-0263", "P-22-G-18-0267", "P-22-G-18-0297", "P-22-G-18-0301", "P-22-G-18-0305", "P-22-G-19-0034", "P-22-G-19-0131" to "P-22-G-19-0136", "P-22-G-19-0167", "P-22-G-19-0180", "P-22-G-19-0300" to "P-22-G-19-0303", "P-22-G-19-0343" to "P-22-G-19-0344", "P-22-G-19-0483", "P-22-G-19-0485" to "P-22-G-19-0536", "P-22-G-19-0546", "P-22-G-19-0557" to "P-22-G-19-0561", "P-22-II-2-0486", "P-22-II-2-0512", and "P-22-II-2-0529", for not being found in the records of the case.

As a consequence, petitioner filed a *Motion for Partial Reconsideration of the Resolution promulgated on December 12, 2017*,[32] wherein petitioner prayed to reconsider the admission of Exhibits "P-9" and "P-11", to which respondent filed a *Comment* on February 2, 2018.[33] Thus, in the Resolution dated March 13, 2018,[34] the Court admitted Exhibits "P-9" and "P-11".

The following documentary exhibits were formally offered by the petitioner:

Exhibit:	**Description:**
P-1	SEC Certificate of Registration No. FS200815730
P-2	BIR Certificate of Registration No. OCN9RC0000306600
P-3	Application for Tax Credit/Refund in the amount of P7,671,632.16 (Oct. 1 to Dec. 31, 2013)
P-3-1 to P-3-3	Checklist of Mandatory Requirements – October to December 2013
P-4	Letter of Authority Number LOA-411-2015-00000184 [SN:eLA201000050688] covering the period October 1 to December 31, 2013 dated December 23, 2015
P-5	Application for Tax Credit/Refund in the amount of P2,262,3331.13 (Jan. 1 to March 31, 2014)
P-5-1	Checklist of Mandatory Requirements – January to March 2014
P-6	Application for Tax Credit/Refund in the amount of P2,354,239.11 (Apr. 1 to June 30, 2014)
P-7	Letter of Authority No. LOA-411-2016-00000022 [SN:eLA201000050707] covering the period January 1 to June 30, 2014 dated February 24, 2016
P-8	Amended Quarterly Value-Added Tax Return (BIR Form 2550Q) for the period October 1 to December

[32] Docket – Vol. II, pp. 1093 to 1096.
[33] Docket – Vol. II, pp. 1106 to 1108.
[34] Docket – Vol. II, pp. 1114 to 1117.

	31, 2013 filed on February 07, 2014
P-8-1	Amended Quarterly Value-Added Tax Return (BIR Form 2550Q) for the period October 1 to December 31, 2013 filed on December 15, 2015
P-9	Amended Quarterly Value-Added Tax Return (BIR Form 2550Q) for the period January 1 to March 31, 2014 filed on April 25, 2014
P-10	Amended Quarterly Value-Added Tax Return (BIR Form 2550Q) for the period January 1 to March 31, 2014 filed on February 17, 2016
P-11	Amended Quarterly Value-Added Tax Return (BIR Form 2550Q) for the period April 1 to June 30, 2014 filed on July 31, 2014
P-12	Amended Quarterly Value-Added Tax Return (BIR Form 2550Q) for the period April 1 to June 30, 2014 filed on February 17, 2016
P-13	BIR's Letter of Denial dated April 15, 2016
P-14	Summary of Sales Invoices Sales Invoices with billing statements, proof of payment, etc.
P-14-1	Accent Micro Technologies Inc SI No. 142450
P-14-2	Accent Micro Technologies Inc SI No. 142564
P-14-3	Accent Micro Technologies Inc Cash Receipt No. 18342
P-14-4	SCJ ROHQ Paylink No. 5836980
P-14-7	Accent Micro Technologies Inc Cash Receipt No. 17144
P-14-8	SCJ ROHQ Paylink No. 5689967
P-14-9	Accent Micro Technologies Inc SI No. 150234
P-14-11	SCJ ROHQ Paylink No. 6290988
P-14-12	Asalus Corporation OR No. 184895
P-14-14	SCJ ROHQ Paylink No. 6290976
P-14-15	Asalus Corporation OR No. 181854
P-14-16	SCJ ROHQ Payling No. 6158263
P-14-17	Asalus Corporation OR No. 125908
P-14-18	SCJ ROHQ Payling No. 3904965
P-14-19	Asalus Corporation OR No. 171531
P-14-20	SCJ ROHQ Paylink No. 5724651
P-14-21	McKinsey & Co. Phils OR No. 0259
P-14-22	PH2 Payment McKinsey Ref. No. 299/300
P-14-23	SC Johnson & Son Inc. Phils. OR No. II00002015
P-14-24	SC Johnson & Son Inc. Phils. Billing Statement No. II96000188
P-14-25	SC Johnson & Son Inc. Phils. Billing Statement No. II96000189
P-14-26	SC Johnson & Son Inc. Phils. Billing Statement No. II96000190
P-14-27	SC Johnson & Son Inc. Phils. Billing Statement No. II96000191
P-14-28	SC Johnson & Son Inc. Phils. Billing Statement No. II96000193

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P-14-29	SC Johnson & Son Inc. Phils. Billing Statement No. II96000194
P-14-30	SC Johnson & Son Inc. Phils. Billing Statement No. II96000195
P-14-31	SC Johnson & Son Inc. Phils. Billing Statement No. II96000196
P-14-32	SC Johnson & Son, Inc. Phils – Proof of Payment Doc. No. 2000009792
P-14-33	SC Johnson & Son, Inc. OR No. 1100002021
P-14-34	SC Johnson & Son, Inc. Phils Billing Statement No. II96000273
P-14-35	SC Johnson & Son, Inc. Phils Billing Statement No. II96000272
P-14-36	SC Johnson & Son, Inc. Phils Billing Statement No. II96000274
P-14-37	SC Johnson & Son, Inc. Phils – Proof of Payment Doc No. 2000012950
P-14-38	SC Johnson & Son, Inc. Phils Inc. OR No. 1100002016
P-14-39	SC Johnson & Son, Inc. Phils Billing Statement No. II96000207
P-14-40	SC Johnson & Son, Inc. Phils Billing Statement No. II96000208
P-14-41	SC Johnson & Son, Inc. Phils Billing Statement No. II96000209
P-14-42	SC Johnson & Son, Inc. Phils – Proof of Payment Doc No. 2000010263
P-14-43	Spearace Solutions Incorporated OR No. 1138
P-14-44	Spearace Solutions Incorporated OR No. 1375
P-14-45	Spearace Solutions Incorporated OR No. 1376
P-14-46	Spearace Solutions Incorporated OR No. 1377
P-14-47	Spearace Solutions Incorporated OR No. 1379
P-14-48	SCJ ROHQ – Paylink No. 6290984
P-14-49	SGV & CO OR No. 087896
P-14-50	SCJ ROHQ – Paylink No. 4516490
P-14-51	SGV & CO OR No. MK00009636
P-14-52	SCJ ROHQ – Paylink No. 6273880
P-14-53	SGV & CO OR No. MK00011153
P-14-54	SCJ ROHQ – Paylink No. 6376892
P-14-55	SGV & CO OR No. 100653
P-14-56	SCJ ROHQ – Paylink No. 5567879
P-14-57	SGV & CO OR No. MK00010121
P-14-58	SCJ ROHQ – Paylink No. 6290993
P-14-59	SGV & CO OR No. 087625
P-14-60	SCJ ROHQ – Paylink No. 4440073
P-14-61	SGV & CO OR No. 102168
P-14-62	SCJ ROHQ – Paylink No. 5724657
P-14-63	SGV & CO OR No. 091474
P-14-64	SCJ ROHQ – Paylink No. 4909292
P-14-65	SGV & CO OR No. 089730

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P-14-66	SCJ ROHQ – Paylink No. 4726402
P-14-67	SGV & CO OR No. 101976
P-14-68	SCJ ROHQ – Paylink No. 5705131
P-14-69	Welding Industries of the Phils OR No. 196824
P-14-70	SCJ ROHQ – Paylink No. 4360036
P-15	Permit to Use Computerized Accounting System dated August 26, 2010
P-15-1	Schedule of Attachment in the Permit
P-16	Request for Update dated Sept. 25, 2013
P-17	Request for Update dated Oct. 24, 2013
P-18	Permit to Use Computerized Accounting System dated Feb. 11, 2014
P-20	Judicial Affidavit of Maria Celeste C. Mutuc
P-20-1	Signature of Ms. Maria Celeste C. Mutuc, found on page 17
P-23	ICPA Report CTA Case No. 9357
P-23-A	Signature of ICPA Valentin U. Romio, found on page 31
P-23-B	Consolidated Summary of Findings
P-25	CD containing the softcopy of the ICPA Report and scanned copies of all the documents examined by ICPA
P-22-G-1-0001	BIR Certificate of Registration (COR) – SCJ Philippines, ROHQ
P-22-G-2-0001 to P-22-G-2-0012	S.E.C. Certificate of Registration and License – SCJ Philippines, ROHQ
P-22-G-3-0001 to P-22-G-3-0012	Petition for Review – CTA Case No. 9357
P-22-G-4-0001 to P-22-G-4-0008	BIR Letter of Denial
P-22-G-5-001 to P-22-G-5-0004	Application for Tax Credits/Refunds (October 2013 to December 2013) and Checklist of Mandatory Requirements for Claims for VAT Credit/Refund
P-22-G-6-0001	BIR Letter of Authority -eLA201000050688 (October 2013 to December 2013)
P-22-G-7-0001 to P-22-G-7-0003	Application for Tax Credits/Refunds (January 2014 to March 2014) and Checklist of Mandatory Requirements for Claims for VAT Credit/Refund
P-22-G-8-0001 to P-22-G-8-0003	Application for Tax Credits/Refunds (April 2014 to June 2014) and Checklist of Mandatory Requirements for Claims for VAT Credit/Refund
P-22-G-9-0001	BIR Letter of Authority – eLA201000050707 (January 2014 to June 2014)
P-22-G-10-0001 to P-22-G-10-0004	Quarterly VAT Return – BIR Form 2550Q (July 2013 to September 2013)
P-22-G-11-	Quarterly VAT Return – BIR Form 2550Q(October

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0001 to P-22-G-11-0004	2013 to December 2013)
P-22-G-14-0001 to P-22-G-14-0004	Quarterly VAT Return – BIR Form 2550Q (January 2014 to March 2014)
P-22-G-17-0001 to P-22-G-17-0004	Quarterly VAT Return – BIR Form 2550Q (April 2014 to June 2014)
P-22-G-12-S-0001 to P-22-G-12-S-0002	Summary List of Sales (SLS) October 2013 to December 2013
P-22-G-12-0001 to P-22-G-12-0256	Details of Invoices/Official Receipts of Summary List of Sales (SLS) October 2013 to December 2013
P-22-G-13-S-0001 to P-22-G-13-S-0009	Summary List of Purchases (SLP) October 2013 to December 2013
P-22-G-13-0001 to P-22-G-13-0549	Details of Invoices/Official Receipts of Summary List of Purchases (SLP) October 2013 to December 2013
P-22-G-14-0001 to P-22-G-14-0004	Quarterly VAT Return – BIR Form 2550Q (January 2014 to March 2014)
P-22-G-15-S-0001	Summary List of Sales (SLS) January 2014 to March 2014
P-22-G-15-0001 to P-22-G-15-0272	Details of Invoices/Official Receipts of Summary List of Sales (SLS) January 2014 to March 2014
P-22-G-16-S-0001 to P-22-G-16-S-0003	Summary List of Purchases (SLP) January 2014 to March 2014
P-22-G-16-0001 to P-22-G-16-0252	Details of Invoices/Official Receipts of Summary List of Purchases (SLP) January 2014 to March 2014
P-22-G-17-0001 to P-22-G-17-0004	Quarterly VAT Return – BIR Form 2550Q (April 2014 to June 2014)
P-22-G-18-S-0001 to P-	Summary List of Sales (SLS) April 2014 to June 2014

22-G-18-S-0002	
P-22-G-18-0001 to P-22-G-18-0309	Details of Invoices/Official Receipts of Summary List of Purchases (SLP) April 2014 to June 2014
P-22-G-19-S-0001 to P-22-G-19-S-0007	Summary List of Purchases (SLP) April 2014 to June 2014
P-22-G-19-0001 to P-22-G-19-0572	Details of Invoices/Official Receipts of Summary List of Purchases (SLP) April 2014 to June 2014
P-22-G-20-0001 to P-22-G-20-0008	Permit to use Computerized Accounting System – SCJ Philippines, ROHQ
P-22-G-21-0001 to P-22-G-21-0052	Audited Financial Statements from the Fiscal Year 2014 & 2013 – SCJ Philippines, ROHQ
P-22-G-22-0001 to P-22-G-22-0016	Inter-company Services Agreement
P-22-G-23-0001 to P-22-G-23-0010	Annual Income Tax Return for the Fiscal Year 2014
P-22-G-24-S-0001	Summary of Accrued Favorable True-up for FY 2013
P-22-G-24-0001 to P-22-G-24-0029	Details of Accrued Favorable True-up for FY 2013
P-22-G-25-S-001	Summary of Accrued Favorable True-up for FY 2014
P-22-G-25-0001 to P-22-G-25-003	Details of Accrued Favorable True-up for FY 2014
P-22-II-1-0001 to P-22-II-1-0037	VAT Returns April 2009 to June 2013
P-22-II-2-S-0001 to P-22-II-2-S-0028	Details of Verified VAT Input (Invoices and Official Receipts)
P-22-III-1-0001	Schedule of Double Reported Input Taxes

P-22-III-2-0001 to P-22-III-2-0010	Schedule B1 – Details of Disallowed Input Tax Due to Non-Compliance
P-22-III-3-0001 to P-22-III-3-0005	Deed of Absolute Sale
P-22-III-4-0001 to P-22-III-4-0003	Certification of Bank Remittances
P-22-III-5-0001 to P-22-III-5-0007	Export Sales and Inward Remittances Reconciliation

Respondent likewise presented documentary and testimonial evidence. His lone witness is Mr. Orlan S. Rabelista,[35] a Revenue Officer of the BIR.

On May 25, 2018, respondent filed his *Formal Offer of Evidence*.[36] Petitioner filed its *Comment [on Respondent's Formal Offer of Evidence]* on June 6, 2018.[37]

Respondent offered the following exhibits:

Exhibit:	Description:
R-1	Memorandum Report dated 15 April 2016
R-2	Letter of Denial dated 15 April 2016

In the Resolution dated September 12, 2018,[38] the Court admitted respondent's Exhibits and gave the parties a period of thirty (30) days from notice to file their respective memorandum.

In the Order dated September 27, 2018,[39] the instant case was transferred to this Court's Second Division.

[35] Order dated May 17, 2018, Docket – Vol. II, pp. 1119 to 1120.
[36] Docket – Vol. II, pp. 1122 to 1124.
[37] Docket – Vol. II, pp. 1126 to 1128.
[38] Docket – Vol. II, pp. 1130 to 1131.
[39] Docket – Vol. II, p. 1133.

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Subsequently, respondent filed its *Memorandum* on November 16, 2018;[40] while the *Memorandum for Petitioner* was submitted on November 23, 2018.[41]

The case was considered submitted for decision on December 17, 2018.[42]

ISSUE

The parties submitted the following issue for this Court's resolution,[43] to wit:

> *"Whether or not Petitioner is entitled to a refund or issuance of tax credit certificate amounting to Nine Million Two Hundred Thirty-Five Thousand Eight Hundred Thirty-Two Pesos and 50/100 (₱9,235,832.50), representing alleged unutilized input taxes attributable to petitioner's zero-rated sales for the 2nd, 3rd, and 4th quarters of fiscal year ending June 30, 2014."*

Petitioner's arguments:

Petitioner argues that the unutilized input taxes from prior periods can be applied against output tax on sales realized during the period of claim in the aggregate amount of ₱6,379,793.87.

In addition, petitioner avers that despite the inadvertence in the printing of the serial numbers on the face of the receipt, it was able to positively show that it was able to accumulate excess input taxes on its sales to its affiliates, subsidiaries and branches outside the Philippines in the amount of ₱9,235,832.50; that this was duly supported and validated by respondent's revenue officers from petitioner's records of inward remittances; that this proves that the income declared were from foreign sources and are thus, subject to zero percent (0%) VAT; and that as such, the input tax credits attributable to the same, are qualified for claim of VAT refund or tax credit certificate.

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[40] Docket – Vol. II, pp. 1144 to 1154.
[41] Docket – Vol. II, pp. 1156 to 1176.
[42] Resolution dated December 17, 2018, Docket – Vol. II, p. 1177.
[43] Issues, Admitted Facts, JSFI, Docket – Vol. II, p. 749.

Respondent's counter-arguments:

Respondent contends that petitioner failed to file the instant *Petition* within the period prescribed by law, and thus, the Court never acquired jurisdiction; that assuming *arguendo* that the said *Petition* was timely filed, petitioner must prove that it complied with all the statutory and administrative requirements to be entitled to tax refund; and that petitioner's claim for refund should properly be denied.

The Petition for Review lacks merit.

Requisites for the grant of the refund or issuance of a tax credit certificate under the law.

Section 112 of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337,[44] provides:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt

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[44] AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: xxx.

xxx xxx xxx

(C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.—* In proper cases, the Commissioner shall grant a refund or issue a tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

Based on the foregoing provisions, certain requisites have been identified through jurisprudential pronouncements which must be complied with by the taxpayer-applicant to successfully obtain a credit/refund of input VAT, and said requisites may be classified into certain categories, to wit:

As to the timeliness of the filing of the administrative and judicial claims:

1. the claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[45]

2. that in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act

[45] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 155732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc.*, G.R. No. 182364, August 3, 2010.

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on the said claim within a period of 120 days, the judicial claim has been filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;[46]

With reference to the taxpayer's registration with the BIR:

3. the taxpayer is a VAT-registered person;[47]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[48]

5. for zero-rated sales under Section 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;[49]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are due or paid;[50]

7. the input taxes are not transitional input taxes;[51]

8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;[52] and

9. the input taxes have not been applied against output

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[46] *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

[47] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc.*, supra.

[48] *Id.*

[49] *Id.*

[50] *Id.*

[51] *Id.*

[52] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.

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taxes during and in the succeeding quarters.[53]

Petitioner's administrative claim was timely filed.

The *first* requisite pertains to the filing of the refund claim for tax credit or refund of input VAT before the BIR, within two (2) years from the close of the quarter when the sales were made.

Counting two (2) years from the close of the 2nd, 3rd and 4th quarters of fiscal year (FY) ending June 30, 2014, the respective last day for the filing of the administrative claim for the said three (3) quarters are shown below:

Period (2015)	**Close of the Taxable Quarter**	**Last Day to File Administrative Claim**
October 1, 2013 to December 31, 2013	December 31, 2013	December 31, 2015
January 1, 2014 to March 31, 2014	March 31, 2014	March 31, 2016
April 1, 2014 to June 30, 2014	June 30, 2014	June 30, 2016

Considering that petitioner's administrative claim for October 1, 2013 to December 31, 2013, was filed on December 23, 2015,[54] the same was timely made. In the same vein, since petitioner's administrative claims, for the periods January 1, 2014 to March 31, 2014 and April 1, 2014 to June 30, 2014, were filed on February 18, 2016,[55] these claims are made well within the said two-year period. Undoubtedly, therefore, petitioner has complied with the said *first* requisite.

The judicial claim for the period October 1, 2013 to December 31, 2013 was belatedly filed. Nonetheless, the judicial claims for the periods from January 1, 2014 to June 30, 2014, were timely made.

[53] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc.*, supra.
[54] Exhibit "P-3", Docket – Vol. II, p. 972.
[55] Exhibits "P-5" and "P-6", Docket – Vol. II, pp. 973 to 974.

The *second* requisite is to the effect that the judicial claim must have been filed within thirty (30) days from receipt of respondent's decision or after the expiration of the 120-day period under the aforequoted Section 112(C).

In this case, the determination of the 120+30-day periods is shown as follows:

Date of Filing of Administrative Claim	End of the 120 days for the BIR to decide the claim	End of the 30 days from expiration of the 120 days
December 23, 2015	April 21, 2016	May 21, 2016
February 18, 2016	June 17, 2016	July 17, 2016

In *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*,[56] the Supreme Court held:

> "**Whether respondent rules in favor of or against the taxpayer — or does not act at all on the administrative claim — within the period of 120 days from the submission of complete documents, the taxpayer may resort to a judicial claim before the CTA.**
>
> xxx xxx xxx
>
> **The judicial claim shall be filed within a period of 30 days after the receipt of respondent's decision or ruling or after the expiration of the 120-day period, <u>whichever is sooner</u>.**
>
> Aside from a specific exception to the mandatory and jurisdictional nature of the periods provided by law,[57] **any claim filed in a period less than or beyond the 120+30 days provided by the NIRC is outside the jurisdiction of the CTA**." *(Emphases and underscoring supplied)*

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[56] G.R. No. 182737, March 2, 2016.

[57] In *CIR vs. San Roque Power Corporation, etseq.* (G.R. Nos. 187485, 196113 & 197156, February 12, 2013, the Supreme Court applied the equitable principle of estoppel and ruled that judicial claims filed from the issuance of BIR Ruling No. DA-489-03 on December 10, 2003 up to its reversal in *CIR vs. Aichi Forging Company of Asia, Inc.* (G.R. No. 184823) on October 6, 2010 need not wait for the lapse of the 120+30-day period.

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Based on the foregoing doctrinal pronouncements, the 30-day period provided by law should be reckoned after the receipt of respondent's decision/ruling or after the expiration of the 120-day period, **whichever is sooner**. In addition, it is clear that any judicial claim filed in a period less than or beyond the said 120+30-day periods is outside the jurisdiction of this Court.

In this case, it is clear that insofar as the refund claim for the period from October 1, 2013 to December 31, 2013 is concerned, the expiration of 120+30 periods came sooner than the date of receipt (*i.e.*, on April 25, 2016) by petitioner of the BIR's letter dated April 15, 2016,[58] denying petitioner's application for VAT refund or credit. After the expiration of the said 120-day period on April 21, 2016, petitioner should have filed its judicial claim before this Court covering the said period, within thirty (30) days after such expiration, *i.e.*, on or before May 21, 2016. Since the instant *Petition for Review* was filed only on May 25, 2016, the portion of the refund claim for the same period should be denied outright, since it is beyond this Court's jurisdiction.

On the other hand, as regards the refund claim for the periods from January 1, 2014 to June 30, 2014, the 30-day period after the receipt on April 25, 2016 of the said letter dated April 15, 2016,[59] came sooner than the 30-day period after the expiration of the 120-day period. Thus, since, as already noted, the filing of the instant *Petition for Review* was done on May 25, 2016, the same was timely made.

Such being the case, for purposes of petitioner's compliance with the above-stated *second* requisite, the judicial claim for the period October 1, 2013 to December 31, 2013 was belatedly filed; while the judicial claims for the periods from January 1, 2014 to June 30, 2014 were timely made.

Petitioner is a VAT-registered person.

As for its compliance with the *third* requisite, petitioner has fulfilled the same by presenting its Certificate of Registration No.

[58] Exhibit "P-13", Docket – Vol. II, pp. 998 to 1001.
[59] *Id.*

0CN9RC0000306600 issued by BIR with TIN 266-267-699-000, indicating that it is liable to VAT.[60]

Petitioner, however, failed to establish that it was engaged in zero-rated or effectively zero-rates sales.

For this case, the above-stated *fourth* requisite to validly claim the refund of input VAT is anchored on Section 108(B)(1) and (2) of the NIRC of 1997, as amended, which provides as follows:

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties. –*
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* – **The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate**:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> (2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)**;" *(Emphases supplied)*

[60] Exhibit P-2, Docket – Vol. II, p. 971.

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Based on the foregoing provision, certain essential elements must be present for a sale or supply of services to be subject to the VAT rate of zero percent (0%), under Section 108(B)(2) of the NIRC of 1997, as amended, to wit:

1) The payment for the said services should be in acceptable foreign currency accounted for in accordance with BSP rules;[61]
2) The recipient of the services is a foreign corporation, and the said corporation is doing business *outside* the Philippines, or is a nonresident person not engaged in business who is *outside* the Philippines when the services were performed;[62]
3) The services fall under any of the categories under Section 108(B)(2),[63] or simply, the services rendered should be other than *"processing, manufacturing or repacking goods"*;[64] and
4) The services must be performed in the Philippines[65] by the VAT-registered person.

Relative to the *first* essential element, petitioner presented the Certification dated September 26, 2014 issued by Citibank, N.A.,[66] purportedly showing the remittances of certain entities to petitioner. Considering that the certification of inward remittances attests to the fact of payment *"in acceptable foreign currency ...and accounted for in accordance with the rules and regulations of the BSP"*;[67] petitioner is considered to have complied with the above-stated *first* essential element.

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[61] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005

[62] *Sitel Philippines Corporation (Formerly Clientlogic Phils., Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017; *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Accenture, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 190102, July 11, 2012.

[63] *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra.

[64] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra.

[65] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra.

[66] Exhibits "P-22-III-4-0001" to "P-22-III-4-0002".

[67] Refer to *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007.

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As for the second essential element, however, petitioner failed to prove that the supposed service-recipients are foreign corporations. Furthermore, there is no showing that the same service-recipients are doing business *outside* the Philippines, or that they are nonresident persons not engaged in business who are *outside* the Philippines when the supposed services were performed. Thus, it can not be said that petitioner complied with the above-stated *second* essential element to treat a transaction as subject to the zero percent (0%) VAT rate.

Petitioner likewise failed to establish that the subject services it rendered to the supposed service-recipients are other than *"processing, manufacturing or repacking goods"*. This Court cannot rely on the *Intercompany Services Agreement*[68] which petitioner submitted, since petitioner is not even a signatory thereof. Thus, there is also no compliance with the said *third* essential element.

Lastly, there is also no indication of petitioner's compliance with the *fourth* essential element, *i.e.*, that the subject services were performed in the Philippines. No evidence was presented by petitioner to prove such fact.

It must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove <u>every minute aspect</u> of their case.[69]

In sum, petitioner failed to fulfill the *fourth* requisite for the successful prosecution of the instant refund claim. Thus, the same must already be denied. Correspondingly, it becomes unnecessary to determine whether petitioner fulfilled the remaining requisites for granting a credit/refund of input VAT for the periods from January 1, 2014 to March 31, 2014, and from April 1, 2014 to June 30, 2014.

Statutes that grant tax exemptions are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing

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[68] Exhibits "P-22-G-22-0001" to "P-22-G-22-0016".

[69] *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, etseq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon vs. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

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authority. Tax refunds in relation to the VAT are in the nature of such exemptions.[70] It is a claimant's burden to prove the factual basis of a claim for refund or tax credit.[71]

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

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70 *Panasonic Communication Imaging Corporation of the Philippines vs. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010.

71 *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice